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File No. O. Finance/48

Legal Department—

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Subject:— Opinions under the

P-13/E Bombay Finance Act,

1932

109-A

File No. O. Finance/48.

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C O N T E N T S.

Legal Department File No. O. Finance/48.

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Office of the R.L.A.

The Bombay Finance Act, 1932.
The City of Bombay Municipal Act, 1888.
Taxation on requisitioned godowns.

The Government of India requisitioned 21 plots of land at Frere Road and constructed 8 godowns on the plots so requisitioned. Some of these plots belong to the Bombay Port Trust and some to its lessees from whom they are requisitioned by Government but the godowns constructed thereon are owned by Government. The question raised for the consideration of the R.b.A. is whether these godowns would be liable to the Urban Immovable Property Tax.

Under section 23 of the Bombay Finance Act, 1932, the Urban Immovable Property Tax shall not be leviable (a) in respect of buildings and lands vesting in His Majesty for purposes of Central Government, and (b) in the Trustees of the Port of Bombay and not used or intended to be used for the purposes of profit. The requisitioned lands no doubt do not vest in the Central Government (see R.L.A's opinion No. 5034 dated 19-6-1942 and Advocate General's opinion dated 16th July 1942). However, the buildings constructed thereon that is to say, the godowns belong to the Central Government and as such, vest in His Majesty for the purposes of Central Government within the meaning of section 23. The Urban Immovable Property Tax is levied in the City of Bombay on the basis of annual letting value of buildings and lands. 'Annual letting value' as defined in section 21 means in the City of Bombay the reteable value of buildings or lands as determined in accordance with the provisions of the City of Bombay Municipal Act, 1888. The reteable value of buildings is determined under section 156 of the City of Bombay Municipal Act, and that value includes the value of the land beneath the building. In other words, a building and land beneath it are together valued as one hereditament for the purpose. It is, therefore, immaterial for purposes of the levy of the Urban

Immovable Property Tax whether or not the lands beneath the xx buildings vest in the Central Government so long as the buildings vest in the Central Government. The godowns constructed on the plots of the Port Trust would not be liable to the Urban Immovable Property Tax because the structures vest in the Central Government and the requisitioned plots in the Port Trust. Even the godowns constructed on the plots of the lessees of the Port Trust would not be liable to the Urban Immovable Property Tax because the godowns vest in the Central Government and the lands beneath them though vest in the Central Government and the lands beneath them though vesting in the lessees are not separately assessed to the reteable value.

Sd/- P.M. LAD,

Remembrancer of Legal Affairs.

U.R. to R.D., No. 402, dated the 13th January 1948.

EVY. 15/6.

L.D. R.I. No. 577 dated
15-1-1948.

Submitted.

In his letter to the Chief Secy. dated the 22nd January 1947, Dr. Mahajani, Secretary of the Deccan Education Society, pointed out that the Poona Municipality was claiming "Urban immoveable property tax" in respect of the institutions conducted by the society but that similar in-stitutions in Bombay were exempted from payment and in the circumstances requested exemption of the institutions in Poona. Government thereupon wrote to Municipal Commissioner inquiring whether the institutions mentioned by Dr. Mahajani were exempted and if so under what circumstances and provisions of law (vide Government letter dated 6-10-1947, p. 19 ante). The reply to this inquiry is contained in Municipal Commissioner's letter No. MGR/2036/1947-48, dated the 19th October 1947 which is slipped Q and placed below. The Commissioner has pointed out the provisions of s. 23(a) of the Bombay Finance Act, 1932 which are identical with section 143(1)(a) of the City of Bombay Municipal Act, 1888 and decisions of the High Court regarding the expression "Charitable purpose" in I.L.R. 16 Bom. 217 and I.L.R. 43 Bom. 281 and has concluded as follows:-

"According to these decisions the term "charitabl purposes" includes building owned by Societies or institutions whose object is advancement of education and which are occupied as Schools, Colleges etc. ".

The Secy, Finance Department desires to know whether the view expressed by the Municipal Commissioner is correct.

U.R. to F.D., No. 1071, dated 30-1-48.

EVY. 15/6.

Office of the R.L.A.

The view expressed by the Municipal Commissioner, Bombay in his letter dated the 29th October 1947 is correct (see R.L.A's opinion No. 6112, dated 6th November 1936 and Advocate General's opinion dated 15th April 1920, copies with are appended).

Sd/- P. M. LAD,
Remembrancer of Legal Affairs.

U.R. to F.D., No. 1071, dated the 30th January 1948.

KVI. 15/6.

L.D.R.I. No. 2427, dated 2-3-48

Submitted with reference to R.D., 'L' Br. note dated 21-2-48 at page 19 ante.

The facts in brief are as follows:-

Eight buildings erected by Raja Dhanrajgirji Natsingirji were requisitioned by the Collector of Bombay for the use of the Defence Department. At the time of the requisition the Collector of Bom. had agreed with the owner to pay the taxes on his behalf to the Municipality in addition to the rent payable to the ~~Municipality in addition to~~ Landlord. When the payment was accordingly demanded from the Collector of Bombay, he paid the Municipal taxes as well as the U.I.P. Tax upto 30-9-46, but from 1-10-46 to 30-9-47 be paid merely the municipal taxes and claimed immunity from the U.I.P. tax. A ref. was made to the Solicitor to the Central Government, who advised that in view of specific agreement between Raja Dhanraj-girji and the Collector of Bombay, the Central Government cannot avoid paying any of the taxes by reason of sec. 154 of the G. of I. Act,. The Collector of Bombay thereupon agreed to pay all taxes to the Municipality. As however, there are other buildings similarly requisitioned, where the U.I.P. tax is still outstanding the Municipal Commissioner wants to know whether Government agrees with his view that requisitioned properties are not entitled to exemption from the levy of the U.I.P. tax.

R.L.A. has been requested to advise whether the Municipal Commissioner's view is correct

EVY. 15/6.

Office of the R.L.A.

Seen and returned.

2. The view expressed by the Municipal Commissioner in his letter No. ASC/6031, dated 2nd January 1948 that the requisitioned premises are not entitled to exemption from the urban immoveable property tax is correct.

Sd/- P.M. LAD,

Remembrancer of Legal Affairs.

U.R. to R.D., No. 3751, dated the 19th April 1948.

EVY. 15/6.

Office of the R.L.A.

Bombay Finance Act, 1932. Section 22, Legy of urban immoveable property tax on bungalow and unattached outhouses.

Seen and returned.

If the unattached outhouses and the bungalow constitute a single hereditament there would be no legal objection to treating them together as one unit for the purposes of the urban immoveable property tax even though they are separately tenanted.

Sd/- P.M. LAD,
Remembrancer of Legal Affairs.

U.R. to R.D., No. 7981, dated the 21st August 1948

EVY. 15/6.

Office of the R.L.A.

Bombay Finance Act, 1932 S. 26(2)(c)

Whether Urban immovable property tax in respect of requisitioned premises payable by Government.

Although the Urban immovable property tax is leviable in the same manner in which the property tax is leviable within the municipal limits, still it cannot be called a municipal tax. Consequently Government's liability to pay the municipal tax would not include liability to pay the urban immovable property tax. Moreover, since by requisition the premises do not vest in Government nor would such requisition establish the relationship of landlord and tenant, the trustees of the requisitioned premises would be liable to pay the urban immovable property tax under clause (c) of section 26(2) of the Bombay Finance Act, 1932.

Sd/- P.M. LAD,

Remembrancer of Legal Affairs.

U.R. to F.D., No. 8810, dated the 16th September 1948.

EVY. 15/6.